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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,199	12/20/2001	Richard C. C. Chao	CHAO3014/EM	6075

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BIRCH, STEWART, KOLASCH & BIRCH, LLP
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EXAMINER

ODLAND, KATHRYN P

ART UNIT	PAPER NUMBER
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3743

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,199

Applicant(s)

CHAO, RICHARD C. C.

Examiner

Kathryn Odland

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 5, 6 and 8-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment/RCE

This is a response to the Amendment/RCE dated September 1, 2004. Claims 1-11 are pending. Claims 5, 6 and 8-10 have been withdrawn and claims 1-4, 7 and 11 are under consideration.

Response to Arguments

1. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rupert in US Patent No. 5,779,512 in view of Bjerre in US Patent No. 1,275,647.

Regarding claim 1, Rupert discloses an apparatus having an inflation member (such as 10) including at least two circular pouches (such as 12, 14), the pouches being not communicating with one another, as recited in column 3, lines 35-40 and seen in figure 3; and control means (16, 18) mounted to each pouch. Further the device is capable of being used as a human body traction and mending apparatus.

However, Rupert does not recite each pouch having two free ends with a slot opening formed therebetween; a delivery means having one end connecting to the control means; or a single fluid generation means connected to another end of the delivery means wherein the fluid generation means generates fluid and delivers the fluid through the delivery means into at least one pouch of the inflation member for inflating the pouch. On the other hand Bjerre teach a pouch having two free ends with a slot opening formed therebetween; a delivery means (such as 18) having one end connecting to the control means/valve; and a single fluid generation means (17) connected to another end of the delivery means wherein the fluid generation means generates fluid and delivers the fluid through the delivery means into at least one pouch of the inflation member for inflating the pouch.

Thus, it would be obvious to one with ordinary skill in the art to modify the invention of Rupert to have free ends that connect for the purpose of more easily applying the apparatus. Further, it would be obvious to modify the invention to include inflation and delivery means for the purpose of inflating the tubular members.

Regarding claim 2, Rupert as modified discloses that as applied to claim 1. Further, attaching via elements being selected from the group consisting of Velcro strips, adhesive tapes, buttons, or zippers, is within the scope of the modification and they can be considered equivalents to the belt of Bjerre.

Regarding claim 3, Rupert as modified discloses that as applied to claim 1, as well as, a control means (16, 18) that is a check valve. Further, it would be obvious to locate it between the delivery means and the fluid generation means. The 1192 ASHRAE Handbook has been cited which defines a check valve as valves that prevent reversal of flow.

Regarding claim 11, Rupert as modified discloses that as applied to claim 1, as well as the modification yields free ends that are selectively closeable by a fastener (such as 12, 13 of Bjerre) to allow insertion of a body portion into an area inside the pouches when open and connect the free ends when worn.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rupert in US Patent No. 5,779,512 in view of Bjerre in US Patent No. 1,275,647 and further in view of Crowley in US Patent No. 4,653,550.

Regarding claim 4, Rupert as modified discloses that as applied to claim 1, as well as, control means that includes an inlet and an outlet. However,

Rupert does not explicitly recite a valve stem and an elastic element, the valve stem having one end attached to a rod. Rupert does not disclose the specifics of the valve structure. On the other hand, a valve stem and an elastic element where the valve stem has one end attached to a rod is a known valve structure. Crowley teaches a valve stem (34 with 36) and an elastic element (42) where the valve stem (34 and 36) has one end attached to a rod (36), as recited in column 2 and seen in figures 1-4. Thus, it would be obvious to one with ordinary skill in the art to assure the system of Rupert as modified have a valve with a structure including a valve stem and an elastic element where the valve stem has one end attached to the rod, as taught by Crowley for the purpose of proper flow control.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rupert in US Patent No. 5,779,512 in view of Bjerre in US Patent No. 1,275,647 and further in view Grim in Re. 34,883.

Regarding claim 7, Rupert as modified discloses that as applied to claim 1. However, fluid generation means that is a pliable gas inflation bulb that is inflatable and deflatable has not been recited. On the other hand, Grim teaches a pliable gas inflation bulb (30) that is inflatable and deflatable, as recited in column 4. Thus, it would be obvious if not an equivalent to use a bulb rather than the inflation means of Bjerre for the purpose of inflating the tubes.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are as follows: US Patent No. 3,048,860.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn Odland whose telephone number is (703) 306-3454. The examiner can normally be reached on M-F (7:30-5:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A Bennett can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KO



Henry A. Bennett
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